

Fishery Conservation and Management

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respectively, that incidentally catches a smalltooth sawfish must—

(i) Keep the sawfish in the water at all times;

(ii) If it can be done safely, untangle the line if it is wrapped around the saw;

(iii) Cut the line as close to the hook as possible; and

(iv) Not handle the animal or attempt to remove any hooks on the saw, except with a long-handled dehooker.

[71 FR 45435, Aug. 9, 2006, as amended at 74 FR 58912, Nov. 16, 2009; 77 FR 4494, Jan. 30, 2012]

Subpart B—Effort Limitations

§ 622.15 Wreckfish individual transferable quota (ITQ) system.

The provisions of this section apply to wreckfish in or from the South Atlantic EEZ.

(a) *Percentage shares.* (1) In accordance with the procedure specified in the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region, percentage shares of the quota for wreckfish have been assigned. Each person has been notified by the RA of his or her percentage share and shareholder certificate number.

(2) All or a portion of a person's percentage shares may be transferred to another person. Transfer of shares must be reported on a form available from the RA. The RA will confirm, in writing, each transfer of shares. The effective date of each transfer is the confirmation date provided by the RA. The confirmation date will normally be not later than 3 working days after receipt of a properly completed transfer form. A fee is charged for each transfer of shares. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook, available from the RA, for determining the administrative costs of each special product or service provided by NOAA to non-Federal recipients. The fee may not exceed such costs and is specified with each transfer form. The appropriate fee must accompany each transfer form.

(b) *Lists of wreckfish shareholders and permitted vessels.* Annually, on or about March 1, the RA will provide each

wreckfish shareholder with a list of all wreckfish shareholders and their percentage shares, reflecting share transactions on forms received through February 15. Annually by April 15, the RA will provide each dealer who holds a dealer permit for wreckfish, as required under § 622.4(a)(4), with a list of vessels for which wreckfish permits have been issued, as required under § 622.4(a)(2)(vii). Annually, by April 15, the RA will provide each wreckfish shareholder with a list of dealers who have been issued dealer permits for wreckfish. From April 16 through January 14, updated lists will be provided when required. Updated lists may be obtained at other times or by a person who is not a wreckfish shareholder or wreckfish dealer permit holder by written request to the RA.

(c) *ITQs.* (1) Annually, as soon after March 1 as the TAC for wreckfish for the fishing year that commences April 16 is known, the RA will calculate each wreckfish shareholder's ITQ. Each ITQ is the product of the wreckfish TAC, in round weight, for the ensuing fishing year, the factor for converting round weight to eviscerated weight, and each wreckfish shareholder's percentage share, reflecting share transactions reported on forms received by the RA through February 15. Thus, the ITQs will be in terms of eviscerated weight of wreckfish.

(2) The RA will provide each wreckfish shareholder with ITQ coupons in various denominations, the total of which equals his or her ITQ, and a copy of the calculations used in determining his or her ITQ. Each coupon will be coded to indicate the initial recipient.

(3) An ITQ coupon may be transferred from one wreckfish shareholder to another by completing the sale endorsement thereon (that is, the signature and shareholder certificate number of the buyer). An ITQ coupon may be possessed only by the shareholder to whom it has been issued, or by the shareholder's employee, contractor, or agent, unless the ITQ coupon has been transferred to another shareholder. An ITQ coupon that has been transferred to another shareholder may be possessed only by the shareholder whose signature appears on the coupon as the

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buyer, or by the shareholder’s employee, contractor, or agent, and with all required sale endorsements properly completed.

(4) Wreckfish may not be possessed on board a fishing vessel that has been issued a commercial vessel permit for South Atlantic snapper-grouper and a commercial vessel permit for wreckfish—

(i) In an amount exceeding the total of the ITQ coupons on board the vessel; or

(ii) That does not have on board logbook forms for that fishing trip, as required under § 622.5(a)(1)(iv)(C)(I).

(5) Prior to termination of a trip, a signature and date signed must be affixed in ink to the “Fisherman” part of ITQ coupons in denominations equal to the eviscerated weight of the wreckfish on board. The “Fisherman” part of each such coupon must be separated from the coupon and submitted with the logbook forms required by § 622.5(a)(1)(iv)(C)(I) for that fishing trip.

(6) The “Fish House” part of each such coupon must be given to the dealer to whom the wreckfish are transferred in amounts totaling the eviscerated weight of the wreckfish transferred to that dealer. A wreckfish may be transferred only to a dealer who holds a dealer permit for wreckfish, as required under § 622.4(a)(4).

(7) A dealer may receive a wreckfish only from a vessel for which a commercial permit for wreckfish has been issued, as required under § 622.4(a)(2)(vii). A dealer must receive the “Fish House” part of ITQ coupons in amounts totaling the eviscerated weight of the wreckfish received; enter the permit number of the vessel from which the wreckfish were received, enter the date the wreckfish were received, enter the dealer’s permit number, and sign each such “Fish House” part; and submit all such parts with the dealer reports required by § 622.5(c)(5)(i).

(8) An owner or operator of a vessel and a dealer must make available to an authorized officer all ITQ coupons in his or her possession upon request.

(d) *Wreckfish limitations.* (1) A wreckfish taken in the South Atlantic EEZ may not be transferred at sea, re-

gardless of where the transfer takes place; and a wreckfish may not be transferred in the South Atlantic EEZ.

(2) A wreckfish possessed by a fisherman or dealer shoreward of the outer boundary of the South Atlantic EEZ or in a South Atlantic coastal state will be presumed to have been harvested from the South Atlantic EEZ unless accompanied by documentation that it was harvested from other than the South Atlantic EEZ.

(3) A wreckfish harvested by a vessel that has been issued a commercial vessel permit for South Atlantic snapper-grouper and a commercial vessel permit for wreckfish may be offloaded from a fishing vessel only between 8 a.m. and 5 p.m., local time.

(4) If a wreckfish harvested by a vessel that has been issued a commercial vessel permit for South Atlantic snapper-grouper and a commercial vessel permit for wreckfish is to be offloaded at a location other than a fixed facility of a dealer who holds a dealer permit for wreckfish, as required under § 622.4(a)(4), the wreckfish shareholder or the vessel operator must advise the NMFS Office for Law Enforcement, Southeast Region, St. Petersburg, FL, by telephone (727-824-5344), of the location not less than 24 hours prior to offloading.

[61 FR 34934, July 3, 1996, as amended at 64 FR 59126, Nov. 2, 1999; 73 FR 410, Jan. 3, 2008; 74 FR 58913, Nov. 16, 2009; 77 FR 15926, Mar. 16, 2012]

EFFECTIVE DATE NOTE: At 77 FR 59131, Sept. 26, 2012, § 622.15 was amended by revising paragraph (a), effective Oct. 26, 2012. For the convenience of the user, the revised text is set forth as follows:

§ 622.15 Wreckfish individual transferable quota (ITQ) system.

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(a) *General*—(1) *Percentage shares*—(i) *Initial ITQ shares.* In accordance with the procedure specified in the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region, percentage shares of the quota for wreckfish were assigned at the beginning of the program. Each person was notified by the RA of his or her percentage share and shareholder certificate number.

(ii) *Reverted ITQ shares.* Any shares determined by NMFS to be inactive, will be redistributed proportionately among remaining shareholders (subject to cap restrictions)

based on shareholder landings history. Inactive shares are, for purposes of this section, those shares held by ITQ shareholders who have not reported any wreckfish landings between April 16, 2006, and January 14, 2011.

(iii) *Percentage share set-aside to accommodate resolution of appeals.* During the 2012–2013 fishing year, the RA will reserve 1.401 percent of wreckfish ITQ shares prior to redistributing shares (see paragraph (a)(1)(ii) of this section) to accommodate resolution of appeals, if necessary. NMFS will distribute any portion of the 1.401-percent share remaining after the appeals process as soon as possible among the remaining shareholders.

(iv) *Procedure for appealing wreckfish quota share status and landings information.* Appeals must be submitted to the RA postmarked no later than January 24, 2013 and must contain documentation supporting the basis for the appeal. The only items subject to appeal are the status of wreckfish quota shares, as active or inactive, and the accuracy of the amount of landings. The RA will review and evaluate all appeals, render final decisions on the appeals, and advise the appellant of the final decision. Appeals based on hardship factors will not be considered. The RA will determine the outcome of appeals based on NMFS' logbooks. If NMFS' logbooks are not available, the RA may use state landings records. Appellants must submit NMFS' logbooks or state landings records, as appropriate, to support their appeal.

(2) *Share transfers.* All or a portion of a person's percentage shares are transferrable. Transfer of shares must be reported on a form available from the RA. The RA will confirm, in writing, each transfer of shares. The effective date of each transfer is the confirmation date provided by the RA. NMFS charges a fee for each transfer of shares and calculates the amount in accordance with the procedures of the NOAA Finance Handbook. The handbook is available from the RA. The fee may not exceed such costs and is specified with each transfer form. The appropriate fee must accompany each transfer form.

(3) *ITQ share cap.* No person, including a corporation or other entity, may individually or collectively hold ITQ shares in excess of 49 percent of the total shares. For the purposes of considering the share cap, a corporation's total ITQ share is determined by adding the corporation's ITQ shares to any other ITQ shares the corporation owns in another corporation. If an individual ITQ shareholder is also a shareholder in a corporation that holds ITQ shares, an individual's total ITQ share is determined by adding the applicable ITQ shares held by the individual to the applicable ITQ shares equivalent to the corporate share the individual holds in a corporation. A corporation must provide the RA the identity of the shareholders of the corporation and their percent

of shares in the corporation, and provide updated information to the RA within 30 days of when a change occurs. This information must also be provided to the RA any time a commercial vessel permit for wreckfish is renewed or transferred.

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§ 622.16 Gulf red snapper individual fishing quota (IFQ) program.

(a) *General.* This section establishes an IFQ program for the commercial red snapper component of the Gulf reef fish fishery. Shares determine the amount of Gulf red snapper IFQ allocation, in pounds gutted weight, a shareholder is initially authorized to possess, land, or sell in a given calendar year. As of January 1, 2012, IFQ shares and allocation can only be transferred to U.S. citizens and permanent resident aliens. See § 622.16(b)(9) regarding eligibility to participate in the Gulf red snapper IFQ program as of January 1, 2012. Shares and annual IFQ allocation are transferable. See § 622.4(a)(2)(ix) regarding a requirement for a vessel landing red snapper subject to this IFQ program to have a Gulf red snapper IFQ vessel account. See § 622.4(a)(4)(ii) regarding a requirement for a Gulf IFQ dealer endorsement. Details regarding eligibility, applicable landings history, account setup and transaction requirements, constraints on transferability, and other provisions of this IFQ system are provided in the following paragraphs of this section.

(1) *Scope.* The provisions of this section regarding the harvest and possession of Gulf IFQ red snapper apply to Gulf red snapper in or from the Gulf EEZ and, for a person aboard a vessel with a Gulf red snapper IFQ vessel account as required by § 622.4(a)(2)(ix) or for a person with a Gulf IFQ dealer endorsement as required by § 622.4(a)(4)(ii), these provisions apply to Gulf red snapper regardless of where harvested or possessed.

(2) *Duration.* The IFQ program established by this section will remain in effect until it is modified or terminated; however, the program will be evaluated by the Gulf of Mexico Fishery Management Council every 5 years.